

**PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DEFENDANTS'
MOTION TO EXCLUDE EXPERT TESTIMONY OF THOMAS MCGUIRE**

EXHIBIT E

ANUPAM B. JENA DEPOSITION TRANSCRIPT (6/6/2019), MDL DKT.
#1978-17 AT 152:6-154:1

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 *****

5 IN RE: NATIONAL

6 PRESCRIPTION OPIATE Case No.
LITIGATION 1:17-MD-2804

7 APPLIES TO ALL CASES

8 Hon. Dan A. Polster

9 *****

10 HIGHLY CONFIDENTIAL
11 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW
12

13 Videotaped Deposition of ANUPAM
14 B. JENA, M.D., Ph.D., held at the offices of
15 Morgan, Lewis & Bockius, LLP, One Federal
16 Street, Boston, Massachusetts, commencing at
17 11:09 a.m., on the 6th of June, 2019, before
18 Maureen O'Connor Pollard, Registered
19 Diplomat Reporter, Realtime Systems
20 Administrator, Certified Shorthand Reporter.
21
22

23 GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
24 deps@golkow.com

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1 germane to mine.
 2 For example, McCann's report I
 3 read page to page multiple times because I
 4 spent half of my report talking about his own
 5 report.
 6 BY MR. PIFKO:
 7 Q. Okay. And let's just go
 8 through them.
 9 David Courtwright's report, did
 10 you read that cover to cover?
 11 A. No. The only report that I
 12 would have read cover to cover would be
 13 Mr. McCann's report.
 14 Q. Okay. So you didn't --
 15 A. And possibly Mr. -- Professor
 16 Cutler's report as well, though that was a
 17 little bit further back, and I only allude to
 18 it very briefly in my own report.
 19 Q. You said possibly David
 20 Cutler's report. Did you -- do you know one
 21 way or another if you reviewed it cover to
 22 cover?
 23 A. I reviewed the majority of
 24 Mr. Cutler's report, and I reviewed the

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1 entirety of Mr. McCann's report, and I
 2 directed my team to review in detail each one
 3 of these reports.
 4 Q. So we have this list of these
 5 21 names. Do you know any of these
 6 individuals professionally or personally?
 7 A. Some of these individuals I
 8 would know professionally.
 9 Q. Okay. Which ones do you know
 10 professionally?
 11 A. So Number 3, Professor Caleb
 12 Alexander; 4, Professor Cutler; 6,
 13 Professor Gruber; 11, Professor McGuire; 13,
 14 Professor Rosenthal. And I believe that's
 15 it.
 16 Q. Okay. Do you know any of these
 17 people personally?
 18 A. What do you mean by
 19 "personally"?
 20 Q. Well, like you know someone in
 21 a professional capacity, maybe you interact
 22 with them in a working manner, but maybe some
 23 people you know them socially is what I'm
 24 asking.

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1 A. No. So I can -- the
 2 individuals -- several of these individuals
 3 are at Harvard and MIT, so one of them is a
 4 collaborator of mine on some work.
 5 Q. Who is that?
 6 A. That's Professor Gruber. We've
 7 collaborated on projects. I wasn't aware
 8 that he was involved in the opioid litigation
 9 until an expert report was filed.
 10 David Cutler is a professor at
 11 Harvard.
 12 Thomas McGuire is a professor
 13 at Harvard.
 14 And Meredith Rosenthal is a
 15 professor at Harvard.
 16 If I were to look back in my
 17 social calendar in the last six months to a
 18 year, I don't think I've had dinner with any
 19 of these individuals. That would be one
 20 proxy for your question.
 21 Q. Caleb Alexander, you said you
 22 know him professionally. How do you know
 23 him?
 24 A. I know him in a limited way. I

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1 think we had some overlap at the University
 2 of Chicago. He's now at Johns Hopkins, and
 3 he's been there many years. I probably saw
 4 him last maybe six years ago, five or six
 5 years.
 6 Q. We talked about David Cutler.
 7 You know him from Harvard?
 8 A. Yes.
 9 Q. Jonathan Gruber?
 10 A. From MIT.
 11 Q. You know him from when you were
 12 an undergrad there?
 13 A. No. I do not know him from
 14 undergrad. I don't know if he was there when
 15 I was an undergrad. He may not -- that was a
 16 long time ago.
 17 Q. Yeah. So that's what I was
 18 just clarifying for the record.
 19 So you know him because you --
 20 because you're both in Boston, you interact
 21 with him?
 22 A. Exactly. These are all very
 23 good health economists.
 24 Q. Thomas McGuire?

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1 A. Also at Harvard.
2 Q. And Meredith Rosenthal, same
3 thing?
4 A. Yes, also Harvard.
5 (Whereupon, Jena Exhibit
6 Number 7 was marked for
7 identification.)
8 BY MR. PIFKO:
9 Q. Handing you what's marked as
10 Exhibit 7. Take a minute to look at
11 Exhibit 7. Let me know when you're done.
12 A. I'm done.
13 Q. Okay. Can you tell me what
14 Exhibit 7 is?
15 A. Sure. Exhibit 7 is Appendix C
16 in my report. It reports Materials
17 Considered.
18 Q. This is a true and correct copy
19 of all the materials considered?
20 A. I believe so.
21 Q. To your knowledge, there's
22 nothing that you considered that's not in
23 here?
24 A. That's correct.

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1 Q. To your knowledge, is there
2 anything that you didn't consider that's in
3 here?
4 A. No.
5 Q. Partway through we have -- if
6 you'd go to C-5. So C-5 through C-11 makes
7 reference to documents in the litigation.
8 A. Yes.
9 Q. Let me know when you're there.
10 A. I'm there.
11 Q. Okay. How did you come to
12 obtain these specific documents?
13 A. My team had full access to the
14 documents that are produced in litigation,
15 again, as well as my other research and
16 publicly available documents. And in forming
17 my outline and in devising a strategy to
18 thinking about the quality of anti-diversion
19 at Rite Aid, as well as other related issues,
20 I asked my team to search through documents
21 specifically within Rite Aid, but also other
22 places, to document exactly what are the
23 different processes and structures that the
24 organization, Mid-Atlantic distribution

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1 facility, as well as the headquarter, had in
2 place to prevent the diversion of opioids.
3 Q. And that's how this list was
4 created?
5 A. That is correct.
6 Q. Do you know how the team
7 obtained access to the documents?
8 A. They had access to all the
9 documents that have been produced in the
10 litigation.
11 Q. Okay. Do you know physically
12 how they had that access?
13 A. "Physically," can you clarify
14 what you mean?
15 Q. How did they gain access to all
16 the documents in the litigation?
17 A. How -- do you mean by computer
18 or what --
19 Q. Whatever --
20 A. -- legal authority gave them
21 that?
22 Q. Whatever method they used.
23 A. Oh, I would assume that most of
24 it is electronic, and maybe through servers,

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1 maybe through disks. I'm not sure in each
2 one of these cases how the specific document
3 was obtained.
4 Q. Okay. Did you personally
5 review any of these documents?
6 A. Yes, I have reviewed some of
7 these documents.
8 Q. Do you know which ones?
9 A. If we went through my report,
10 the specific documents that I call on in the
11 report itself as opposed to in the materials
12 considered, each one of those documents I
13 would have -- I would have reviewed
14 personally, as well as other documents that
15 are in the materials considered that I may
16 not have cited in the actual report itself.
17 Q. How did you come to access the
18 documents?
19 A. I would access them through a
20 computer provided to me as a PDF file.
21 Q. Okay. So the team would send
22 you a PDF of certain documents?
23 A. That's correct.
24 Q. Via e-mail or something?